

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Volha Shauchenka	Team: Squad #15	CCRB Case #: 201605262	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 06/11/2016 12:15 AM	Location of Incident: In front of 312 2nd Avenue; § 87(2)(b)		Precinct: 13	18 Mo. SOL 12/11/2017	EO SOL 12/11/2017
Date/Time CV Reported Sat, 06/11/2016 2:05 AM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 06/17/2016 10:59 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. LT Bekim Kalicovic	00000	936834	013 PCT
2. POM Jose Bueno	04866	932376	013 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Thomas Knudsen	29305	952942	013 PCT
2. POM Michael Migliore	18080	952018	013 PCT

Officer(s)	Allegation	Investigator Recommendation
A.LT Bekim Kalicovic	Abuse: In front of 312 2nd Avenue in Manhattan, Lieutenant Bekim Kalicovic stopped § 87(2)(b)	§ 87(2)(b)
B.LT Bekim Kalicovic	Force: In front of 312 2nd Avenue in Manhattan, Lieutenant, Bekim Kalicovic used physical force against § 87(2)(b)	§ 87(2)(b)
C.POM Jose Bueno	Discourtesy: In front of 312 2nd Avenue in Manhattan, Police Officer Jose Bueno spoke discourteously to § 87(2)(b)	§ 87(2)(b)
D.POM Jose Bueno	Abuse: At § 87(2)(b), Police Officer Jose Bueno threatened § 87(2)(b) with the use of force.	§ 87(2)(b)
E.POM Jose Bueno	Discourtesy: At § 87(2)(b), Police Officer Jose Bueno spoke discourteously to § 87(2)(b)	§ 87(2)(b)

Case Summary

On June 11, 2016, Captain Daniel Magee of the Counterterrorism Bureau filed this complaint on behalf of § 87(2)(b) with IAB, generating log #16-20851. It was received at the CCRB on June 17, 2016.

On June 11, 2016, at approximately 12:15 a.m., § 87(2)(b) was riding his Green Power motorized scooter south bound on 2nd Avenue in Manhattan when he was stopped by Lt. Bekim Kalicovic of the 13th Precinct in front of 312 2nd Avenue due to an active I-Card (**Allegation A**). Lt. Kalicovic's operator PO Jose Bueno approached § 87(2)(b) and Lt. Kalicovic as soon as he observed the stop. Lt. Kalicovic instructed § 87(2)(b) to go with him to the stationhouse, and § 87(2)(b) refused multiple times and threw himself to the ground. Both Lt. Kalicovic and PO Bueno placed § 87(2)(b) in handcuffs, and during that process, Lt. Kalicovic allegedly knelt § 87(2)(b) in the back once (**Allegation B**). § 87(2)(b) was allegedly calling for an ambulance while being handcuffed.

After § 87(2)(b) was handcuffed, he allegedly started feeling pain in his lower back and left shoulder. A number of officers of the 13th Precinct, including PO Thomas Knudsen and PO Michael Migliore, responded to scene, but the majority of them were dismissed by Lt. Kalicovic. While § 87(2)(b) was waiting for the ambulance, PO Bueno allegedly cursed at § 87(2)(b) saying he was "despicable, nothing, and a piece of shit". PO Bueno also allegedly told § 87(2)(b) he should not be living (**Allegation C**).

At 12:45 a.m., the ambulance arrived, and § 87(2)(b) was transported to § 87(2)(b). PO Migliore accompanied § 87(2)(b) in the ambulance, while PO Bueno followed them in the RMP. At the hospital, § 87(2)(b) was attended by doctors § 87(2)(b) and § 87(2)(b). One of the doctors allegedly attempted to force § 87(2)(b) to consent to a rectal exam, and PO Bueno allegedly informed § 87(2)(b) if he did not consent to the exam, he would perform it himself and put on the gloves (**Allegation D**). § 87(2)(b) refused, and pulled his pants down exposing his buttocks allegedly to prevent them from performing the exam. At the hospital, PO Bueno allegedly continued to use profanities toward § 87(2)(b) and called him a "piece of shit" again (**Allegation E**). An X-ray was done to § 87(2)(b) and he received pain medication. § 87(2)(b) was allegedly diagnosed with a dislocated disc in his lower back and a dislocated left shoulder. § 87(2)(b) was arrested for resisting arrest, obstruction of governmental administration, and violation of local law.

There is no video recording of the incident.

The case is submitted past its 90-day benchmark as it was initially closed as victim unavailable on July 17, 2016. On August 23, 2016, it was reopened per § 87(2)(b)'s attorney's request.

Mediation, Civil and Criminal Conviction Histories

- The case is unsuitable for mediation due to § 87(2)(b)'s arrest that stemmed from the incident.
- § 87(2)(b) filed a Notice of Claim with the City of New York on § 87(2)(b), claiming serious and permanent injuries, emotional and psychological injuries, conscious pain and suffering, assault, battery, false arrest and/or imprisonment and/or malicious prosecution and seeking \$2,000,000.00 as redress [BR 04].

- As per New York City Comptroller's Office, a 50 H hearing in regards to § 87(2)(b)'s claim has been scheduled for § 87(2)(b).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
- § 87(2)(a)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- Lt. Kalicovic has been a member of the service for 11 years and has 10 CCRB complaints filed against him containing 26 allegations, § 87(2)(g)
- In case #201402580, Lt. Kalicovic has a physical force, three premises entered and/or searched and two discourtesy allegations that were substantiated. The CCRB has recommended charges for four of them and command discipline A for the other two. As of yet, the NYPD has taken no disciplinary action in regards.
 - In case #201505561, there is one substantiated discourtesy allegation pleaded against Lt. Kalicovic, for which the CCRB recommended command discipline B. The NYPD took no disciplinary action due to the state of limitations.
- PO Bueno has been a member of the service for 13 years and has three CCRB complaints filed against him containing four allegations, § 87(2)(g)

Potential Issues

Both Dr. § 87(2)(b) and Dr. § 87(2)(b) were contacted but did not recall the incident and could not provide any information in regards citing the fact that they treat a number of patients on a daily basis [BR 13, 14].

Findings and Recommendations

Allegations Not Pleaded

- § 87(2)(g)
- § 87(2)(g)

- § 87(2)(g)
- **Abuse of Authority:** Despite § 87(2)(b) alleging that officers delayed medical attention to him, based on the NYPD Event #§ 87(2)(b) an ambulance was requested at 12:22 a.m., nine minutes after § 87(2)(b) was stopped [NYPD 10, 19]. The ambulance arrived on the scene at 12:45 a.m., and officers were continuously checking on its arrival time. § 87(2)(g)
 - § 87(2)(g)
 - § 87(2)(g)
 - § 87(2)(g)

Recommendations

Allegation A - Abuse of Authority: In front of 312 2nd Avenue in Manhattan, Lieutenant Bekim Kalicovic stopped § 87(2)(b)

When interviewed at the CCRB, § 87(2)(b) stated he was driving his scooter south bound in the bicycle lane of 2nd Avenue in Manhattan [BR 03]. In front of 312 2nd Avenue, § 87(2)(b) observed Lt. Kalicovic standing between the bicycle lane and the sidewalk blocking his path. Lt. Kalicovic put his hand up and instructed § 87(2)(b) to pull over, which he did. Lt. Kalicovic referenced a domestic incident § 87(2)(b) was involved in 2015 and informed § 87(2)(b) he had to go to the stationhouse with him.

During his CCRB interview, Lt. Kalicovic stated he and PO Bueno were conducting directed patrol of East 18th Street between 2nd and 1st Avenues in Manhattan and as they were walking towards their RMP parked on 2nd Avenue, Lt. Kalicovic observed § 87(2)(b) riding his scooter south bound on 2nd Avenue [BR 10]. Lt. Kalicovic explained to the investigator he is familiar with § 87(2)(b) and knew that there was an active I-Card for him for petit larceny resulting from the domestic incident mentioned above with probable cause to arrest for him. When asked when Lt. Kalicovic reviewed § 87(2)(b)'s I-Card last time, he explained to the investigator that he reviews active I-Cards in his precinct on a weekly basis, and during one of the reviews, Sgt. Neil Veras, the domestic violence supervisor, informed Lt. Kalicovic that the investigation of § 87(2)(b) had been ongoing for a few months and officers had several unsuccessful attempts to bring § 87(2)(b) in for questioning. On February 12, 2016, § 87(2)(b)'s sister filed a CCRB complaint in regards to officers visiting their apartment looking for § 87(2)(b) [case #§ 87(2)(b) of which Lt. Kalicovic became aware as well. Lt. Kalicovic visited § 87(2)(b)'s house in regards to the complaint and the I-Card, which was unsuccessful, and also called

§ 87(2)(b) on his cell phone. As a result, § 87(2)(b)'s investigation was still active and he had not been apprehended to that date. When Lt. Kalicovic observed § 87(2)(b) on 2nd Avenue, he immediately stopped him based on the abovementioned knowledge and the active I-Card.

In his statement to the CCRB, PO Bueno confirmed he and Lt. Kalicovic were conducting directed patrol in the vicinity, although he noted he was in their parked RMP when he observed Lt. Kalicovic stopped in the bicycle lane of 2nd Avenue facing the northbound traffic with his hand up in the air. § 87(2)(b) unknown to PO Bueno at the time, who was riding a motorized scooter, stopped in front of Lt. Kalicovic.

I-Card number § 87(2)(b) issued on § 87(2)(b) lists that there is probable cause to arrest § 87(2)(b) since he is a perpetrator [NYPD 06]. The I-Card was prepared in regards to criminal complaint #§ 87(2)(b) where § 87(2)(b) is listed as wanted for petit larceny that stemmed from a domestic incident that occurred on March 17, 2015 [NYPD 02, 08]. The narrative of § 87(2)(b)'s arrest also indicates he was arrested on the aforementioned I-Card [BR 20].

According to New York State Criminal Procedure Law § 140.50, an officer may stop an individual if he/she believes that the individual has committed, is committing or is about to commit a crime [BR 18].

§ 87(2)(g)
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Allegation B - Force: In front of 312 2nd Avenue in Manhattan, Lieutenant, Bekim Kalicovic used physical force against § 87(2)(b)

§ 87(2)(b) stated that after Lt. Kalicovic informed him he had to go to the stationhouse, he refused as he believed the incident he was wanted for had been closed already and that was not a good time for him and Lt. Kalicovic to talk [BR 03]. For some time, Lt. Kalicovic continued to insist, and § 87(2)(b) continued to refuse Lt. Kalicovic's instructions. At some point during that interaction, PO Bueno joined the scene. After going back and forth with the officer, § 87(2)(b) informed Lt. Kalicovic he was not feeling well, requested to sit down and for an ambulance to be called. § 87(2)(b) believed his blood pressure increased due to the fact he was feeling stressed and annoyed at Lt. Kalicovic. § 87(2)(b) threw himself to the ground and sat on the sidewalk. After that, Lt. Kalicovic and PO Bueno placed him in handcuffs. At some point during the handcuffing, Lt. Kalicovic placed his knee against § 87(2)(b)'s lower back in an attempt to pull his hands behind his back. After § 87(2)(b) was placed in handcuffs, he was left on the ground lying on his right shoulder since he could not sit up due to the pain in his lower back and left shoulder. In his follow-up phone statement, § 87(2)(b) stated he believed the pain in his lower back was a result of Lt. Kalicovic's kneeling him there [BR 06]. § 87(2)(b) added he had a preexisting medical condition that stemmed from a traffic accident he was involved in in 2015. The accident resulted in dislocated disks in his neck and lower/mid back parts of the spine, a torn ligament and a dislocated rotator cuff in his right shoulder. § 87(2)(b) believed that his interaction with Lt. Kalicovic aggravated his prior injuries as they began to heal and he was feeling better prior to June 11, 2016. At the hospital, § 87(2)(b) was given some pain medication, and an X-ray was performed to him.

Lt. Kalicovic stated that after § 87(2)(b) stopped, he took a deep breath, crossed his hands in front him, and told the lieutenant that he knew officers had been looking for him, but the issue had been resolved already [BR 10]. Lt. Kalicovic replied that the assigned detective to § 87(2)(b)'s case had established probable cause for his arrest and he had to go with him to the stationhouse. § 87(2)(b) refused, and for approximately five minutes Lt. Kalicovic had a conversation with § 87(2)(b) attempting to convince him to go to the stationhouse multiple times. After that, Lt. Kalicovic grabbed § 87(2)(b)'s hand and, and he pulled it away and took a step back. Lt. Kalicovic informed § 87(2)(b) he was going to be arrested either way and offered to put two sets of handcuffs on him, and § 87(2)(b) continued to refuse. Lt. Kalicovic grabbed § 87(2)(b)'s hand again, and § 87(2)(b) threw himself to the ground and sat in a crunched position. § 87(2)(b) started yelling, which was attracting public attention. Lt. Kalicovic instructed § 87(2)(b) to stand up and put his hands behind his back, and § 87(2)(b) refused. Lt. Kalicovic then proceeded to handcuff § 87(2)(b) by pulling his arms towards his back. § 87(2)(b) was resisting, but eventually Lt. Kalicovic grabbed one of § 87(2)(b)'s hands, turned him to the side and placed the hand in a handcuff. Lt. Kalicovic held § 87(2)(b) by that hand and his upper body, while PO Bueno grabbed § 87(2)(b)'s other hand and placed it in another handcuff. The officers then joined the handcuffs together. Neither Lt. Kalicovic nor PO Bueno knelt § 87(2)(b) in the back or used any other type of force other than mentioned above. While being placed in handcuffs, § 87(2)(b) continued to yell and scream, but Lt. Kalicovic did not hear what exactly § 87(2)(b) was screaming or whether he was complaining of any pain. After handcuffing § 87(2)(b) both officers picked him up and sat him in an upright position. Lt. Kalicovic did not observe any injuries on him at that point. § 87(2)(b) continued to yell stating that the officers were beating and killing him and asking the passers-by to call an ambulance for him. Lt. Kalicovic requested an ambulance immediately after § 87(2)(b) was handcuffed as he believed he was acting irrational by yelling and could not be taken to the stationhouse in that state.

After PO Bueno observed Lt. Kalicovic stop § 87(2)(b) he immediately approached both of them [BR 11]. PO Bueno confirmed that Lt. Kalicovic informed § 87(2)(b) he had been wanted for an active I-Card, after which § 87(2)(b) immediately threw himself to the ground in an upright position and went limp. Lt. Kalicovic instructed § 87(2)(b) to place his hands behind his back, and both officers grabbed his arms. § 87(2)(b) pulled his hands away and started flailing them. To avoid getting into a fight, Lt. Kalicovic instructed PO Bueno to step away, grabbed § 87(2)(b) by his waist, turned him around and placed him on his stomach. § 87(2)(b) complied, and both officers placed two sets of handcuffs on him. PO Bueno explained that they used two sets of handcuffs due to § 87(2)(b)'s size, and § 87(2)(b) never requested the two sets of handcuffs himself. Lt. Kalicovic did not knee § 87(2)(b) in the back and never used any other type of force to handcuff § 87(2)(b). PO Bueno confirmed he and Lt. Kalicovic lifted § 87(2)(b) up and placed him in an upright position. § 87(2)(b) started complaining of back pain and explained to PO Bueno that he had been previously involved in a traffic accident during which he sustained an injury to his back. PO Bueno did not observe any injuries on § 87(2)(b) at the time. Either Lt. Kalicovic or PO Bueno requested an ambulance for § 87(2)(b) immediately after he complained of back pain.

When interviewed at the CCRB, PO Migliore stated he and his partner PO Knudsen arrived at the location after they received a request for additional units from Lt. Kalicovic [BR 12]. § 87(2)(b) was already in handcuffs and was sitting on the sidewalk in an upright position. § 87(2)(b) was yelling, crying and complaining of lower back pain. PO Migliore did not observe any injuries on § 87(2)(b). § 87(2)(b) stated that Lt. Kalicovic and PO Bueno “messed him up,” and

was asking every pedestrian to call an ambulance for him. No other officers were interviewed as their testimonies would not affect the dispositions of the allegations.

An Ambulance Care Report prepared for § 87(2)(b) notes that he was found sitting on the sidewalk in handcuffs complaining of back pain from them [PD 04]. It was related to the EMTs that § 87(2)(b) was rolling on the ground while handcuffed. As per § 87(2)(b)'s medical records from § 87(2)(b), he complained of being kicked by an officer in the back, which aggravated his previous injury [PD 02, 03]. § 87(2)(b) also complained of pain and loss of sensation in his left leg. Dr. § 87(2)(b) noted that § 87(2)(b) was agitated and was swearing. § 87(2)(b) was given some pain medication and an X-ray was performed to his back, which showed a normal alignment of spine, no visible fracture, dislocation or destructive osseous. § 87(2)(b)'s discharge recommendation was determined to be unspecified backache.

A Threat Resistance and Injury Report #§ 87(2)(b) was prepared by Lt. Kalicovic due to the fact that he used force when apprehending § 87(2)(b) and he complained of an injury [NYPD 12, BR 10]. Lt. Kalicovic indicated that he grabbed § 87(2)(b)'s arms in an attempt to handcuff him and overcome resistance. Lt. Kalicovic also noted that § 87(2)(b) complained of severe pain in his chest, neck, and back.

A Threat Resistance and Injury Report #§ 87(2)(b) was prepared by PO Bueno for the same reason as Lt. Kalicovic's [NYPD 13, BR 11]. PO Bueno noted that he placed hands on § 87(2)(b) in an effort to handcuff him and to overcome resistance and aggression. During that process, § 87(2)(b) was flailing arms and body in an attempt to prevent officers from handcuffing him. PO Bueno also noted that § 87(2)(b) complained of substantial pain to his chest, neck, and back.

An Investigating Supervisor's Assessment Report #§ 87(2)(b) prepared by Capt. Magee notes that § 87(2)(b) was resisting arrest by pulling his hands from the officers and falling to the ground [NYPD 11]. Capt. Magee concluded that officers used minimum amount of force necessary and did not observe any physical injuries on § 87(2)(b).

A Medial Treatment of Prisoner Form prepared for § 87(2)(b) notes that he complained of back pain, but the injury is marked as old since § 87(2)(b) was involved in an accident a year ago, and his interaction with the officers aggravated his previous injury [NYPD 14].

According to Patrol Guide Procedure 221-01, an officer's main duty is to protect human life, including the lives of individuals being placed in custody [BR 15]. Force may be used when necessary in order to ensure safety of a third person or an officer, or to prevent a perpetrator from escaping custody. When appropriate, an officer is expected to use de-escalation techniques to safely gain voluntary compliance. In situations when this approach is not safe or reasonable, an officer may use only that amount of force necessary to gain compliance.

It is undisputed that Lt. Kalicovic and PO Bueno used force against § 87(2)(b) while placing him in handcuffs due to his size. § 87(2)(g)

§ 87(2)(g)

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§ 87(2)(g)

Allegation C - Abuse of Authority: In front of § 87(2)(b) e in Manhattan, Police Officer Jose Bueno spoke discourteously to § 87(2)(b)
Allegation E - Abuse of Authority: A § 87(2)(b), Police Officer Jose Bueno spoke discourteously to § 87(2)(b)

§ 87(2)(b) alleged that as he was waiting for the ambulance to arrive, PO Bueno was cursing at him, saying that he was “despicable, nothing and should not be living at all” [BR 03]. PO Bueno also told § 87(2)(b) he was selling drugs and called him a “piece of shit.” § 87(2)(b) could not recall any other curse words, but noted that PO Bueno was using a lot of profanities. § 87(2)(b) responded, “Ok, if that’s what you think,” and did not use any profanity toward PO Bueno in response. When § 87(2)(b) was at the hospital, PO Bueno allegedly continued to use profanities toward him saying that he was “no good” and a “piece of shit.” In response, § 87(2)(b) called PO Bueno a “faggot.”

Part of the incident was witnessed by § 87(2)(b) who was identified by the CCRB filed team during the canvass of the area. During his CCRB interview, § 87(2)(b) stated he was in the bedroom of his apartment located on the § 87(2)(b) Manhattan when he heard loud screaming outside [BR 07]. § 87(2)(b) approached the window and observed § 87(2)(b) sitting in an upright position on the sidewalk less than 20 feet away from the window. § 87(2)(b) was already in handcuffs, and there were approximately five to six officers and two EMTs standing nearby. § 87(2)(b) was using profanity toward the officers saying, “Why the fuck are you doing this?” None of the officers reacted to § 87(2)(b)’s comments and did not raise their voices at him. § 87(2)(b) was consistent throughout his statements to the CCRB [BR 05].

PO Bueno noted that while waiting for the ambulance, § 87(2)(b) said to him that he was going to kill him and that he eats “small guys” like him for breakfast [BR 11]. PO Bueno did not react to § 87(2)(b)’s comments and just laughed. PO Bueno denied calling § 87(2)(b) “despicable, nothing, and a piece of shit” or telling him he should not be living at all. PO Bueno did not use any profanity toward § 87(2)(b) and there was no verbal argument between them. PO Bueno did not hear any officers use profanity toward § 87(2)(b). At the hospital, § 87(2)(b) was placed in an individual room, and was yelling that PO Bueno kicked him. To avoid any interaction with § 87(2)(b), PO Bueno stepped out of the room, and PO Migliore was the only one left with § 87(2)(b). PO Bueno denied calling § 87(2)(b) a “piece of shit” or using any type of profanity toward him at the hospital. PO Bueno did not hear any other officer use any profanity toward § 87(2)(b) and was not aware whether PO Migliore had any interaction with § 87(2)(b) as the door to the room was closed.

Both Lt. Kalicovic and PO Migliore confirmed that while waiting for the ambulance, § 87(2)(b) was yelling, but was not engaged on a verbal dispute with PO Bueno [BR 10, 12]. None of the officers confirmed that PO Bueno made the alleged statements, and stated they did not hear any other officer use any profanity toward § 87(2)(b).

§ 87(2)(g)

§ 87(2)(b)

(g)

Allegation D - Abuse of Authority: A § 87(2)(b), Police Officer Jose Bueno threatened § 87(2)(b) with the use of force.

§ 87(2)(b) stated that at the hospital, the doctor informed him he had to undergo a rectal exam [BR 03]. PO Bueno allegedly agreed with the doctor and told § 87(2)(b) he had no choice. § 87(2)(b) believed that the doctor and PO Bueno were attempting to force him to consent to a cavity search. Since § 87(2)(b) did not believe his injury was related to his rectum, he refused to undergo the exam and requested to speak to the doctor's supervisor. The doctor went away, and PO Bueno allegedly told § 87(2)(b) if he did not pull his pants down and did not show his anus, he would conduct the rectal exam himself and put on the gloves [BR 06]. § 87(2)(b) became scared and pulled down his pants while lying on the right side as he did not wish to be touched. PO Bueno looked over § 87(2)(b) to see his anus, but did not physically touch him.

Neither Dr. § 87(2)(b) nor Dr. § 87(2)(b) recalled the incident [BR 13, 14].

PO Bueno noted he did not know whether § 87(2)(b) had to undergo a rectal exam as he is not a medical professional. PO Bueno explained that he was not aware whether § 87(2)(b) was suspected in having any narcotics on him and there was no discussion with the doctors that § 87(2)(b) had to undergo a rectal exam [BR 11]. PO Bueno denied telling § 87(2)(b) he had to undergo a rectal exam nor did he hear any other officer say so. There was no need for PO Bueno to conduct a cavity search for § 87(2)(b). Additionally, PO Bueno stated he was never alone in the room with § 87(2)(b) and § 87(2)(b) never complained to PO Bueno that he was threatened with a cavity search.

Lt. Kalicovic noted that upon stopping § 87(2)(b) he did smell an odor of marijuana coming from him, but there was no need to strip-search § 87(2)(b) or conduct a cavity search [BR 10]. Lt. Kalicovic did not go to the hospital with § 87(2)(b) nor did he recall anyone calling him and requesting his authorization for a strip-search or a cavity search. Lt. Kalicovic never authorized a cavity search for § 87(2)(b).

PO Migliore confirmed that at the hospital § 87(2)(b) was placed in an individual room, but noted that both him and PO Bueno were inside the room the entire time [BR 12]. Dr. § 87(2)(b) told § 87(2)(b) that she wanted to perform a rectal exam on him due to his complaint of back pain. § 87(2)(b) replied, "Fuck you, you cops just want to do a cavity search, I don't have anything." After that, § 87(2)(b) pulled his shorts down exposing his buttocks to PO Migliore slightly spreading them. Both officers and Dr. § 87(2)(b) were in the room at that time. PO Migliore told § 87(2)(b) to pull his pants up, and none of the officers touched § 87(2)(b). Neither PO Bueno nor PO Migliore told § 87(2)(b) to pull his shorts down and expose his buttocks. Dr. § 87(2)(b) did not give such instructions to § 87(2)(b) either. Neither of the officers told § 87(2)(b) he had to undergo a rectal exam nor did they discuss that among themselves.

It is noted in § 87(2)(b)'s medical records that Dr. § 87(2)(b) offered § 87(2)(b) to undergo a rectal exam for tone assessment, and he refused [PD 02, 03].

Since it is noted in his medical records, it is undisputed that § 87(2)(b) was offered to undergo a rectal exam by Dr. § 87(2)(b). Additionally, both the subject and witness officer confirmed they never received any instructions to conduct a cavity search on § 87(2)(b).

§ 87(2)(g)

Squad: 15

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date